

VZCZCXRO8507  
PP RUEHDBU  
DE RUEHKB #1659/01 3181606  
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FM AMEMBASSY BAKU  
TO RUEHC/SECSTATE WASHDC PRIORITY 1681  
INFO RUCNCIS/CIS COLLECTIVE PRIORITY  
RUEHAK/AMEMBASSY ANKARA PRIORITY 1824  
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RUEHNO/USMISSION USNATO PRIORITY 0500  
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C O N F I D E N T I A L SECTION 01 OF 05 BAKU 001659

SIPDIS

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DEPT FOR DRL A/S LOWENKRON FROM AMBASSADOR DERSE

E.O. 12958: DECL: 11/09/2016

TAGS: [PREL](#) [PGOV](#) [KDEM](#) [PHUM](#) [AJ](#)

SUBJECT: SCENESETTER FOR DRL A/S LOWENKRON'S NOVEMBER 27-28  
VISIT TO AZERBAIJAN

Classified By: Ambassador Anne E. Derse per 1.4 (b,d).

11. (C) Azerbaijan is at a pivotal moment in its development, with billions in energy revenue beginning to flow into government coffers, increasing fears of tensions with Iran and Russian resurgence in the region, and senior leaders taking a careful look at Azerbaijan's internal development and potential to strengthen its regional role. US interests are served by Azerbaijan's continued prosperity and stability, and reform -- both political and economic -- remains key to both. The next two years, leading up to Azerbaijan's 2008 presidential election, offer a window in which President Aliyev, benefiting from his support in the public, can implement steady, gradual reform if he chooses. We should engage the senior levels of GOAJ leadership now in a results-oriented, realistic, and discreet dialogue that underscores democratic reform as an integral part of a strengthened bilateral relationship and seeks to establish a joint commitment and program for progress. Your visit will be the first step in our effort to establish a new, structured dialogue on democratic reform, and will set the tone and content as we work with the GOAJ to develop a shared vision of Azerbaijan's democratic reform goals and how the US can best support them. We believe this dialogue should be organized around five key areas in which there is a need for democratic progress: rule of law, political process, media freedom, respect for human rights, and an engaged, empowered citizenry. We should build directly on President Aliyev's commitment in Washington to continue to work with the US in support of reform to promote Azerbaijan's development as a modern, secular, market-oriented democracy.

12. (C) Azerbaijan's democratic progress since the November 2005 parliamentary elections has been halting and disappointing. In some areas, such as judicial reform and anti-corruption measures, we have seen limited progress, such as the creation of a new exam system for judges, stiffer penalties for criminal corruption offenses, and prosecution of corruption cases. In other areas, such as parliamentary and electoral reform, the GOAJ appears to be clinging to an unacceptable status quo. In still other areas, such as media freedom and freedom of assembly, we have seen a clear rollback of previous gains.

13. (C) Azerbaijan's uneven performance stems in large part from continuing and deeply held misperceptions within the GOAJ ruling elite of the merits of democratic reform and related concerns about the potentially destabilizing impact of reform. Unconvinced that democratic reform is key to Azerbaijan's long-term prosperity and stability, many within

the governing elite continue to view democratic reform as a threat first to Azerbaijan's widely prized stability, and second to their own power and perquisites. Current pressures on the media and limitations on freedom of assembly (septels) undoubtedly are seen by some within GOAJ ruling circles as smart -- and necessary -- domestic political tactics in the run-up to 2008 presidential elections.

¶4. (C) Absent a strategic framework for change and an agreed approach with the GOAJ, we are unlikely to change significantly this pervasive attitude. We believe that the incentive of an enhanced relationship with the U.S., coupled with the confidence that comes from an agreed agenda and regular, government-to-government dialogue, is our best hope to address deeply ingrained attitudes and promote change. In this cable, we outline our assessment of the current situation in five key areas, as well as our recommendations for shared reform objectives that could be identified in a new democracy dialogue. Continued USG support for strengthening Azerbaijan's democratic institutions through diplomatic and programmatic efforts is vital in all five areas.

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RULE OF LAW  
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¶5. (C) The judiciary continues to be corrupt and dominated by the Executive Branch. High-profile cases such as the trial of the opposition Yeni Fikir youth activists were marred by serious procedural problems. In one positive development, the GOAJ agreed to hold new exams for aspiring judges, and the process -- held in accordance with

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recommendations from our DOJ Resident Legal Advisor and ABA/CEELI -- was judged by international observers to be fair, transparent and corruption-free. This positive experiment needs to be fully implemented through the appointment of these new judges, and replicated throughout the judiciary and the police force to ensure that GOAJ officials in the legal and law enforcement sector are well-qualified and not corrupt.

¶6. (C) More general progress on anti-corruption measures is lacking, as noted in the June 2006 Group of State Against Corruption (GRECO) report. While the GOAJ has passed good laws, it has failed to implement them or to demonstrate the political will to address this problem. Key next steps include passage and implementation of legislation to combat terrorist financing and money laundering, and creation of a Financial Investigations Unit. Progress in key anti-corruption areas is likely to remain limited while senior GOAJ officials continue to pursue their own vested economic interests, underscoring the importance of continued USG efforts to push the GOAJ on economic reform. At a minimum, the GOAJ needs to implement its own conflict of interest legislation, to ensure that sitting officials are not making policy decisions that affect their own economic interests.

¶7. (C) As part of our democracy dialogue, we should press the GOAJ to implement its rule of law commitments, as articulated by the OSCE and the Council of Europe. Further reform in the judicial process -- including hiring new, well-qualified judges, restructuring and opening the defense bar, and retraining current judges, prosecutors and defense lawyers is essential to that process. A GOAJ program to reform the police force, now lackig, also is essential, particularly to ensure tha individuals are protected from the arbitrary us of state powers. Continued USG technical assisance programs, particularly those implemented by IL and DOJ, as well as USAID implementing partner ABA/CEELI, are critical to our efforts. In retur for continued USG support to GOAJ reform effort, we should press for broad legal and structural changes that will allow real reform to take root,

such as the enforcement of anti-corruption laws, the restructuring of the Prosecutor General's Office, and the paid retirement of current, Soviet-era judges.

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POLITICAL PROCESS: PARLIAMENT, PARTIES, ELECTIONS  
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¶18. (C) Since Azerbaijan's November 2005 parliamentary elections, little has changed in Azerbaijan's political process and climate. Although the GOAJ acknowledged the serious irregularities that marred the vote counting and tabulation process and held rerun elections in ten districts that were acknowledged by the international community as free of major irregularities, progress on electoral reform ended with the May 2006 rerun elections. The GOAJ is in dialogue with the Venice Commission over proposed changes to the Electoral Code, but has yet to implement electoral reform recommendations made by the OSCE/ODIHR. So far, the new parliament is off to a lackluster start, with little apparent effort by the leadership to guide the legislative agenda or make the legislative process more transparent and open. Certain individuals within parliament are trying to make a difference, pressing for procedural changes that would enable independents and the opposition to introduce legislation and participate more effectively, but their efforts to date have received no support from the leadership. Other individual MPs are reaching out to their constituents, slowly building the relationships and level of responsiveness necessary to develop a truly representative democracy. The Speaker of Parliament has agreed to make one personal staff member available to each MP, an important initiative we will support through training and technical assistance provided under USAID's new parliamentary assistance program.

¶19. (C) With the exception of Musavat, which is playing a constructive role, the traditional opposition parties (Popular Front Party, Azerbaijan Democratic Party and Azerbaijan Liberal Party) have boycotted the political process since the November 2005 elections were certified, and have displayed little interest in the hard work of grass-roots party-building and advocacy needed to build a

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real following. On a positive note, USAID implementing partners NDI and IRI report the GOAJ and ruling Yeni Azerbaijan Party are fully supportive of their party-building activities and grant them both full license to work throughout Azerbaijan.

¶10. (C) As part of our democracy dialogue, we should work to convince the GOAJ that it has the political space necessary to encourage a robust political process without posing a risk to Azerbaijan's internal stability. Strengthening Parliament as an independent branch of government -- particularly by opening the legislative process to public scrutiny and debate, and by empowering Parliament to conduct true oversight of executive branch activities -- could create a significant opening for public debate. In practical terms, the GOAJ has little to lose by giving more power to a body completely dominated by the ruling party.

¶11. (C) The GOAJ also must continue its work on electoral reform, institutionalizing and building upon the hard-won procedural gains of the 2005 elections. Pressing for full implementation of the OSCE/ODIHR election reforms well before the 2008 election must be part of our democracy dialogue. Changing the electoral code to ensure that election commissions are truly neutral and balanced bodies, one of the recommendations made by both the OSCE and the Venice Commission, is key. The real challenge will be to convince President Aliyev and his key advisors that, in domestic political terms, he can allow the democratic opening that is needed.

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¶12. (C) The media environment has deteriorated significantly over the last year, with several attacks on opposition and independent journalists, a rash of libel suits, threats against VOA and BBC's ability to broadcast in Azerbaijan as part of an effort to undermine independent local broadcaster ANS, and pressure on several opposition newspapers to vacate their premises. Given that resident Aliyev had ordered a halt to libel suit on journalists in the wake of the March 2005 murder of journalist Elmar Huseynov, the deterioration in media freedoms over the last year has been disturbing both for Azerbaijani journalists and the international community. Some of the libel suits are linked to ongoing clashes among Azerbaijan's political heavyweights (Interior Minister Usubov and Minister of Emergency Situations Heydarov, for example, both have provided extensive financial backings to newspapers that they use as vehicles to attack rivals) but the overall effect has been chilling.

¶13. (C) As part of our democracy dialogue, we should press the GOAJ to decriminalize libel as a first priority. We also should urge President Aliyev to consider working with a representative group of responsible media to develop a modus vivendi and if possible, joint efforts to both develop the climate and legal framework for a free media, and efforts to develop the media itself as a professional and ethical institution in Azerbaijan's emerging democracy. As independent observers, including Reporters without Borders, have noted, Azerbaijan's media is dominated by mouthpieces for the government and opposition parties; it is need of further training and development.

¶14. (C) As part of our democracy dialogue, we also should offer additional training to Azerbaijani journalists. Senior GOAJ officials -- including President Aliyev -- complain repeatedly that Azerbaijani journalists are neither professional nor principled. While these complaints do not excuse the physical and legal attacks that journalists have suffered in Azerbaijan, they are not unfounded. Journalists in Azerbaijan need a great deal of training and exposure to international standards in order to play a more responsible role in public debate. A renewed and enhanced commitment from the United States to help professionalize Azerbaijan's journalists could vastly improve Azerbaijan's media climate, by giving journalists the tools and political space they need to do their jobs.

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ENGAGED, EMPOWERED CITIZENRY

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¶15. (C) 15 years after the breakup of the Soviet Union, civil society is still very weak in Azerbaijan. While a few courageous groups -- primarily in the human rights sphere -- continue to speak out, they enjoy little recognition outside Baku and rely heavily on foreign funding. Civil society's weakness stems from a continuing, fundamental lack of understanding among Azerbaijan's citizens of their rights and responsibilities under a democratic system of governance, as well as the GOAJ's implicit mistrust of NGOs and subsequent heavy-handed tactics, and the divided and personality-driven nature of Azerbaijan's NGO scene. NGOs and political parties have been stymied in their efforts to hold public rallies over the last year, with requests denied on little or no grounds. Since the GOAJ used force to break up an authorized opposition rally on November 26, 2005, the GOAJ has not allowed a single opposition rally to take place. NGOs also continue to face difficulty in the registration process, particularly human rights and political NGOs.

¶16. (C) Because an understanding of democracy is the key to an engaged and empowered citizenry, we should seek a

commitment from the GOAJ to work together on civic education programs, offering technical assistance -- on a cost-sharing basis -- that could bring international best practices to Azerbaijan. As part of our democracy dialogue, we also should press the GOAJ to ease recent restrictions on freedom of assembly, to ensure that all groups can exercise their constitutional right to freely assemble and peacefully express their views. The GOAJ also fully respect its legal commitments regarding freedom of association by easing the NGO registration process. Holding the GOAJ to its Council of Europe commitment to eliminate the system of appointed local authorities (ExComs) by 2008 also would greatly improve the connection between citizens and their local officials, and create much-needed room for grass-roots activism. As part of our democracy dialogue, we should continue to provide technical assistance regarding community development and the strengthening of local governments.

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HUMAN RIGHTS  
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¶17. (C) Much of the public discussion of Azerbaijan's human rights record over the last year has been driven by two high-profile cases: the Yeni Fikir youth group and the group of 11 former GOAJ officials -- including ex-Ministers Farhad Aliyev and Ali Insanov -- accused of plotting a coup in the run-up to Azerbaijan's November 2005 parliamentary elections.

Regardless of the merits of the charges against either group, the judicial process in both cases has been poor. The Yeni Fikir trial exhibited a complete absence of due process, and the televised "confession" of former Finance Minister Fikret Yusifov and the torture of former police officer turned opposition leader Natiq Efendiyev have irreparably damaged the process for Farhad Aliyev and his alleged co-conspirators. Yet the attention paid to these high-profile, politically driven cases masks deeper, systemic problems in Azerbaijan's legal and judicial process.

¶18. (C) We believe the root cause of Azerbaijan's human rights problems can be successfully addressed only through a targeted, structured program to fundamentally reform Azerbaijan's law enforcement and judicial systems. Currently, Azerbaijan's police forces, prison officials, judges, prosecutors and defense attorneys are poorly trained and paid, lacking in resources, corrupt and, for the most part, without any incentive to ensure they are meeting Azerbaijan's international human rights obligations in their own work. Police officials rarely are investigated or punished for human rights abuses, and the European Court of Human Rights presents the only chance for a citizen facing political charges to obtain a fair hearing. Our best chance for long-term change in Azerbaijan's human rights performance will come not only from pushing for due process in pending cases, but by supporting and pushing consistently and carefully for long-term change in Azerbaijan's institutions and processes. Reform of the police, the prisons, the Prosecutor General's Office, the courts, and the defense bar -- supported by continued technical assistance from the international community -- must be a central element of our

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human rights dialogue, even as we continue to raise our concerns in cases of egregious violations.

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